

MDR Tracking Number: M5-04-1241-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on January 5, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits (99212, 99213-MP, 99214), massage therapy (97124), hot/cold packs (97010), ultrasound (97035), myofascial release (97250), electrical stimulation (97014), and ADL training (97540) were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 01/09/03 through 08/08/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 4th day of March 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 3/1/04

MDR Tracking Number: M5-04-1241-01
IRO Certificate No. 5259

February 24, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

____ a 49 year old male, injured his back and left groin when lifting some large plates into an industrial press while working for _____. He subsequently underwent medical, physical therapy and chiropractic care, eventually ending up with ____ in May 2001, who co-managed with _____. Diagnostic testing included MRI of the lumbar spine 5/30/01 which revealed disc desiccation L3/L4 with degenerative disc disease at L4/L5 including a three millimeter disc herniation, and at L5/S1 a two millimeter disc herniation. CT scan at the same time revealed L3/L4, L4/L5 and L5/S1 degenerative changes and disc herniations. Electro-diagnostics on 6/14/01 revealed bilateral radiculopathy of L4, L5 and S1. Work hardening was pursued and on 11/5/01 patient was placed at MMI with a DRE category III impairment of 10%. This was later confirmed by designated Doctor on 4/3/02. Pain management interventions were recommended on 3/2/02, however were not followed through with. On 01/09/03 the patient suffered an exacerbation and presented for approximately nine visits of chiropractic care until 01/31/03. Additionally five further dates of service between 4/28/03 and 8/8/03 have been documented.

REQUESTED SERVICE (S)

Medical necessity of office visits (99212, 99213-MP and 99214), massage therapy (97124), hot/cold packs (97010), ultrasound (97035), myofascial release (97250), electrical stimulation (97014), ADL training (97540) from 01/09 /03 through 08/08/03.

DECISION

- 1/. Code 99213-MP: There is establishment of medical necessity for this service for all of the disputed dates.
- 2/. Code 99212: There is establishment of medical necessity for this service for all of the disputed dates.
- 3/. Code 99214: There is establishment of medical necessity for this service for all of the disputed dates.
- 4/. Code 97010: There is establishment of medical necessity for only 5 (FIVE) units of Hot / Cold pack applications between 01/09/03 and 01/22/03.
- 5/. Code 97250: There is establishment of medical necessity for this service for all of the disputed dates.
- 6/. Code 97014: There is establishment of medical necessity for this service on all of the disputed dates.
- 7/. Code 97035: There is establishment of medical necessity for this service on all of the disputed dates.
- 8/. Code 97540: There is establishment of medical necessity for this service on all of the disputed dates.
- 9/. Code 97124: There is no establishment of medical necessity for this service on any of the disputed dates.

RATIONALE/BASIS FOR DECISION

1/. Codes 99213-MP, 99212, 99214, 97035, 97014, 97250, 97540:

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

This patient has been at MMI since April of 2002, with ongoing residual symptoms and a 10% whole person impairment. It appears that the patient suffered an exacerbation of his symptoms whilst performing normal basic activities of daily living. The documentation identifies an increased level of pain, along with a deterioration in physical objective findings on 1/9/03. A course of care was then rendered throughout January which was successful in returning the patient to somewhere near his baseline level. Subsequent follow-up visits appear to be in line with intermittent flare-ups and/or treating doctor administrative functions. All adjunctive physiotherapeutic modalities (with the exception of hot packs and massage therapy, addressed below) appear to be reasonable and necessary in addressing the condition at hand, and satisfy the above-mentioned standard for medical necessity.

2/. Code 97010: The application of hot/cold packs is generally appropriate as an initial precursor / support therapy at the initiation of care. There is no clinical indication in the records to indicate that ongoing use of this modality is necessary beyond the first week or so (five applications), especially in conjunction with the other modalities utilized, the use of which provide a duplicative effect. Ongoing application hot/cold packs would be more judiciously utilized in a home care environment.

3/. Code 97124: Massage therapy was billed in conjunction with myofascial release. Massage therapy is a form of myofascial release and it is therefore duplicative to bill for both services on the same date of service. There is no rationale or indication provided as to how these therapies were distinct or separate from one another, or which type of therapeutic effect was provided that differentiated one from another.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such material may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.